

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2815 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHANDRAKANT M VAISHNAV

Versus

GUJARAT ELECTRCITY BOARD

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Appearance:

MR PV HATHI for Petitioner

MR VIMAL PATEL for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/03/98

ORAL JUDGMENT

Heard the learned counsel for the parties.

2. The petitioner made two-fold prayers in this Special Civil Application and prayer (B) in para-19 of the Special Civil Application has not been pressed by the learned counsel for the petitioner.

3. It is not in dispute that the petitioner retired from the services of the respondent-Board in the year 1982 and this Special Civil Application has been filed by him in this court on 28th February 1986. So this petition has been filed by petitioner after about more than three years from the date of his retirement from the Board's services. Challenge has been made by petitioner in this Special Civil Application to the order dated 28th May 1975, annexure 'K' to the Special Civil Application under which the petitioner was ordered to be given higher grade of Rs.550-1265 with effect from 28th December 1973. The petitioner was holding the post of Deputy Engineer at the relevant time in the respondent-Board. The petitioner has accepted the said order giving him higher pay scale with effect from 28th December 1973 which is clearly evident from the fact that he has not challenged the same either by filing the Special Civil Application before this Court or taking any other legal and appropriate remedy available. Only in the matter of some other Deputy Engineers, when this Court has decided their cases in the year 1984, the petitioner has made a representation to the respondent on 28th August 1984 and after more than one year and six months thereof, he filed this Special Civil Application.

4. The learned counsel for the petitioner contended that the petitioner filed a representation in the year 1976 against the order annexure 'K', but filing of that representation in the year 1976 will not be considered to be sufficient explanation for this long delay in three stages, i.e. after the date of the order impugned, after the date of retirement and after filing of last representation. It is a case where the petitioner has accepted the order dated 28th May 1975 and has taken the benefits following therefrom and as such now he is estopped from challenging the same after so many years of the passing of the said order. In fact, after about eleven years of the said order, the petitioner has filed this Special Civil Application. It is true that normally after admission, the Special Civil Application may not be dismissed on the ground of delay but looking to the peculiar facts of this case, and particularly the fact that the petitioner has not challenged the order annexure 'K' during the period he was in service, and even after his retirement, for more than three years, this writ petition deserves to be dismissed only on the ground of delay and laches.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands

vacated. No order as to costs.

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(sunil)